

AMENDED IN SENATE SEPTEMBER 2, 2003

AMENDED IN SENATE JULY 3, 2003

AMENDED IN ASSEMBLY MAY 7, 2003

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 826

**Introduced by Assembly Member Jackson
(Coauthors: Assembly Members Laird and Lieber)**

February 20, 2003

An act to amend Section 25404 of, to add Section 25504.1 to, and to add Article 10.01 (commencing with Section 25210.5) and Article 12.5 (commencing with Section 25249.1) to Chapter 6.5 of Division 20 of, the Health and Safety Code, relating to hazardous waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 826, as amended, Jackson. The Perchlorate Contamination Prevention Act: perchlorate materials: statewide ~~date~~ *data* base.

(1) Existing law, administered by the Department of Toxic Substances Control, prohibits the management of hazardous waste, except in accordance with the hazardous waste laws or in the regulations adopted by the department. A violation of the hazardous waste control law is a crime.

This bill would enact the Perchlorate Contamination Prevention Act and would ~~require perchlorate facilities, as defined, to have an unsaturated zone monitoring, as described in the bill, except as specified, and to meet other requirements.~~

~~The bill would require that existing groundwater monitoring wells in the state, emplaced for whatever purpose, be available for use as early warning or sentinel wells to warn of impending threat to drinking water resources, and that the department develop protocols and procedures for conducting groundwater monitoring or perchlorate sentinel wells.~~

~~The bill would require the department to adopt regulations, by December 31, 2005, specifying best management practices for managing perchlorate materials and. The bill would prohibit a person from managing perchlorate materials after the effective date of those regulations, except in compliance with the best management practices specified in those regulations.~~

~~The bill would require the owner or operator of a perchlorate facility, as defined, located within a 5-mile radius of a public drinking water well that has been found by a state or local agency to be contaminated with perchlorate to submit to the Environmental Protection Agency, on or before July 1, 2004, a summary of any subsurface and any groundwater monitoring, investigation, or remediation work that has been performed at the facility.~~

Because a violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program.

(2) Existing law requires the Secretary for Environmental Protection to adopt regulations and implement a unified hazardous waste and hazardous materials management regulatory program. Existing law authorizes a city or local agency that meets specified requirements to apply to the secretary to implement the unified program, and requires every county to apply to the secretary to be certified to implement the unified program. The secretary is required to establish standards specifying the data to be collected and submitted by unified program agencies in administering the unified program.

This bill would additionally include, in the unified program, a person managing perchlorate materials, thereby creating a state-mandated local program by imposing new duties upon local agencies.

The bill would require the secretary to establish a statewide database and to work with the certified unified program agencies to develop a phased-in schedule for the electronic collection and submittal of information to be included in the statewide date base.

(3) Existing law generally requires a business that handles specified amounts of a hazardous material to establish and implement a business plan for emergency response to a release or threatened release of the hazardous material, as specified. Existing law specifies the contents of



the business plan, including an inventory, and requires it to be submitted to the administering agency, as defined. Under existing law, violations related to business plans are a crime.

This bill would require a business that handles any amount of perchlorate materials to prepare and submit a business plan and an inventory. By changing the definition of a crime, this bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as the
2 Perchlorate Contamination Prevention Act.

3 SEC. 2. (a) The Legislature finds and declares all of the
4 following:

5 (1) The State Department of Health Services, in the year 2000,
6 reported detections of perchlorate in 44 public drinking water
7 systems, with 23 systems indicating levels greater than 18 part per
8 billion.

9 (2) This perchlorate contamination has been found statewide,
10 including areas in Los Angeles, Pasadena, Riverside, Sacramento,
11 San Bernardino, and Santa Clarita.

12 (3) Perchlorate can persist for many years in ground and
13 surface water, and it is difficult to remove perchlorate with
14 standard water treatment processes.

15 (4) Perchlorate has been found in scientific studies to disrupt
16 thyroid hormone production, which hinders the body's ability to
17 regulate its metabolism and physical growth.

18 (5) Pregnant women and their developing fetuses may suffer
19 the most serious health effects from perchlorate contamination in
20 drinking water, including improper thyroid functioning and
21 inhibition of iodine intake.

(6) The Office of Environmental Health Hazard Assessment is proposing a public health goal within the range of 2 to 6 parts per billion of perchlorate in water.

(7) An awareness of the problem caused by perchlorate materials and wastes has increased and information has become available from investigation of groundwater contamination at various sites.

(8) Perchlorate materials and wastes are associated with, among other things, solid rocket propellants, explosives, fireworks, flares, airbags, and some fertilizers.

(9) The discharge of perchlorate waste into the environment through air, surface and subsurface soils, surface water and groundwater media is a threat to water supply and to wildlife habitat, such as wetlands.

(10) In light of the serious risks to public health and the environment posed by perchlorate releases resulting from the mismanagement of perchlorate and perchlorate-containing materials, the Department of Toxic Substances Control has indicated that it will reprioritize its existing regulatory resources to enable the expeditious assessment of existing standards, and the adoption of any additional standards determined to be necessary, for the management of waste perchlorate and perchlorate-containing wastes. The Department of Toxic Substances Control has also indicated that, should legislation be enacted requiring that nonwaste perchlorate and perchlorate-containing materials also be addressed as part of this assessment and regulations adoption process, this can be accomplished without additional resources.

(b) It is the intent of the Legislature to enact legislation to establish a continuing program for the purpose of preventing contamination from management of perchlorate material and from generation, storage, treatment, and disposal of perchlorate or perchlorate-containing waste relative to emissions into the air and subsequent deposition and runoff into surface water or groundwater, and direct or indirect discharge to surface soils, subsurface soils, surface water, or groundwater of the State of California.

SEC. 3. Article 10.01 (commencing with Section 25210.5) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 10.01. Management of Perchlorate

25210.5. For purposes of this article, the following definitions shall apply:

(a) Notwithstanding Section 25117.2, “management” means disposal, storage, packaging, processing, pumping, recovery, recycling, transportation, transfer, treatment, use, and reuse.

(b) “Perchlorate” means all perchlorate-containing compounds.

(c) “Perchlorate material” means perchlorate and all perchlorate-containing substances, including, but not limited to, waste perchlorate and perchlorate-containing waste.

25210.6. (a) On or before December 31, 2005, the department shall adopt regulations specifying best management practices for a person managing perchlorate materials. These practices may include, but are not limited to, all of the following:

(1) Procedures for documenting the amount of perchlorate materials managed by the facility.

(2) Management practices necessary to prevent releases of perchlorate materials, including, but not limited to, containment standards, usage, processing and transferring practices, and spill response procedures.

(b) (1) The department shall consult with the State Air Resources Board, the Office of Environmental Health Hazard Assessment, the State Water Resources Control Board, the Office of Emergency Services, the State Fire Marshal, and the California certified unified program agencies forum before adopting regulations pursuant to subdivision (a).

(2) The department shall also, before adopting regulations pursuant to subdivision (a), review existing federal, state, and local laws governing the management of perchlorate materials to determine the degree to which uniform and adequate requirements already exist, so as to avoid any unnecessary duplication of, or interference with the application of, those existing requirements.

(3) In adopting regulations pursuant to subdivision (a), the department shall ensure that those regulations are at least as stringent as, and to the extent practical consistent with, the existing requirements of Chapter 6.95 (commencing with Section 25500) and the Uniform Fire Code governing the management of perchlorate materials.

(c) The regulations adopted by the department pursuant to this section shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, including subdivision (e) of Section 11349.1 of the Government Code, any emergency regulations adopted pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the department.

(d) The department may implement an outreach effort to educate persons who manage perchlorate materials concerning the regulations promulgated pursuant to subdivision (a).

25210.7. On and after the effective date of the regulations adopted by the department pursuant to Section 25210.6, a person may not manage perchlorate materials unless the management complies with the best management practices specified in the regulations adopted by the department.

SEC. 4. Article 12.5 (commencing with Section 25249.1) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 12.5. The Perchlorate Contamination Prevention Program

~~25249.1. For purposes of this article, “perchlorate facility” means the structures, appurtenances, and improvements on the land, and all contiguous land, that are associated with the management of perchlorate material or with the generation, storage, treatment, or disposal of perchlorate or perchlorate-containing waste. A facility may consist of material or waste management units, hazardous or nonhazardous, including, but not limited to, surface impoundments, landfills, underground tanks, aboveground tanks, sumps, pits, or ponds.~~

1 ~~25249.3. (a) Except as provided in subdivision (g), all~~
2 ~~inground sumps, piping, and other appurtenant devices used by a~~
3 ~~perchlorate facility to convey or store perchlorate-containing~~
4 ~~materials and wastes shall have unsaturated zone monitoring.~~

5 ~~(b) The department shall do all of the following:~~

6 ~~(1) Develop protocols and procedures for conducting vadose~~
7 ~~zone monitoring of perchlorate material and waste storage and~~
8 ~~conveyance devices. These procedures shall address devices~~
9 ~~including, but not limited to, piping, sumps, and tanks.~~

10 ~~(2) Require the owner or operator of a perchlorate facility to~~
11 ~~establish and pay for an unsaturated zone monitoring system for~~
12 ~~each unit where perchlorate liquid or perchlorate-containing waste~~
13 ~~liquid are managed.~~

14 ~~(c) The owners and operators of a perchlorate facility located~~
15 ~~within 1/2-mile upgradient of a potential source of drinking water~~
16 ~~shall comply with protocols and procedures, developed by the~~
17 ~~department pursuant to subdivision (b), for vadose zone~~
18 ~~monitoring.~~

19 ~~(d) The unsaturated zone monitoring system shall include, at a~~
20 ~~minimum:~~

21 ~~(1) A sufficient number of background monitoring points~~
22 ~~established at appropriate locations and depths to yield soil-pore~~
23 ~~liquid samples or soil pore measurements that represent the~~
24 ~~quality of soil-pore liquid that has not been affected by a release~~
25 ~~from the perchlorate unit.~~

26 ~~(2) A sufficient number of monitoring points established at~~
27 ~~appropriate locations and depths to yield soil-pore liquid samples~~
28 ~~or soil-pore liquid measurements that provide the best assurance~~
29 ~~of the earliest possible detection of a release from a perchlorate~~
30 ~~unit.~~

31 ~~(3) Consistent sampling and analytical procedures that are~~
32 ~~designed to ensure that monitoring results provide a reliable~~
33 ~~indication of water quality at all monitoring points and~~
34 ~~background monitoring points. At a minimum, the program shall~~
35 ~~include:~~

36 ~~(A) Sample collection, such as purging techniques, sampling~~
37 ~~equipment, and decontamination of sampling equipment.~~

38 ~~(B) Sample preservation and shipment.~~

39 ~~(C) Analytical procedures.~~

40 ~~(D) Chain-of-custody control.~~

~~(4) Appropriate sampling and analytical methods for soil-pore liquid in the unsaturated zone that accurately measure the concentration of perchlorate and the concentration of, or value of, any monitoring parameter.~~

~~(e) Background monitoring points shall be installed at a background plot having soil characteristics similar to those of the soil underlying the perchlorate unit.~~

~~(f) Liquid recovery types of unsaturated zone monitoring, such as the use of lysimeters, are required unless the owner or operator demonstrates to the department's satisfaction that these methods of unsaturated zone monitoring cannot provide an indication of a release from a specific unit. Complementary or alternative types of unsaturated zone monitoring, such as nonliquid recovery, are required, as necessary, to provide the best assurance of the earliest possible detection of a release from a perchlorate unit.~~

~~(g) (1) Unsaturated zone monitoring is required unless the owner or operator demonstrates to the satisfaction of the department either that there is no unsaturated zone monitoring device or method designed to operate under the subsurface conditions existing at that unit, or that the installation of unsaturated zone monitoring devices would require unreasonable dismantling or relocating of permanent structures. If the department is satisfied with the owner's or operator's demonstration, then the owner or operator shall install a groundwater monitoring system to monitor the uppermost aquifer and all intermediate perched groundwater for that unit.~~

~~(2) If a facility contains contiguous units, separate groundwater monitoring systems are not required for each unit if the owner or operator demonstrates to the satisfaction of the department that the groundwater monitoring system will provide the earliest possible detection and measurement of release from the contiguous units.~~

~~(3) The department shall utilize a registered geologist or certified engineer to determine satisfaction with the owner's or operator's demonstration.~~

~~(h) All monitoring systems, in both saturated and unsaturated zones, shall be designed and certified by a registered geologist or registered civil engineer. The department shall utilize a registered geologist or certified engineer to evaluate all monitoring systems.~~

~~(i) All monitoring points and other borings drilled to satisfy the requirements of this section shall be logged during drilling under~~

1 ~~the direct supervision of a registered geologist, who shall~~
2 ~~demonstrate span of control. These logs shall be submitted to the~~
3 ~~department as part of an installation report.~~

4 ~~(j) Soil shall be described in the geologic log according to the~~
5 ~~Unified Soil Classification System as presented in Geotechnical~~
6 ~~Branch Training Manuals Numbers 4, 5, and 6, published by the~~
7 ~~United States Bureau of Reclamation, January 1986. Rock shall be~~
8 ~~described in the geologic log in a manner appropriate for the~~
9 ~~purpose of the investigation.~~

10 ~~25249.4. (a) Existing groundwater monitoring wells in the~~
11 ~~State of California, emplaced for whatever purpose, shall be~~
12 ~~available for use as early warning or sentinel wells to warn of~~
13 ~~impending threat to drinking water resources.~~

14 ~~(b) The department shall develop protocols and procedures for~~
15 ~~conducting groundwater monitoring of perchlorate sentinel wells.~~

16 ~~(c) For purposes of this section, all potential sentinel wells~~
17 ~~within 1/2-mile downgradient of a perchlorate facility and within~~
18 ~~or connected to a potential source of drinking water shall comply~~
19 ~~with protocols and procedures for groundwater monitoring.~~

20 *25249.1. For the purposes of this article, the following*
21 *definitions shall apply:*

22 *(a) "Management" means disposal, storage, packaging,*
23 *processing, pumping, recovery, recycling, transportation, transfer,*
24 *treatment, use, and reuse.*

25 *(b) "Perchlorate" means all perchlorate-containing*
26 *compounds.*

27 *(c) "Perchlorate facility" means all contiguous land, and the*
28 *structures, appurtenances and improvements on the land, that has*
29 *been used for the management of perchlorate material. A*
30 *perchlorate facility may consist of one or more units, or*
31 *combination of units, that is or has been used for the management*
32 *of perchlorate material.*

33 *(d) "Perchlorate material" means perchlorate and all*
34 *perchlorate-containing substances, including, but not limited to,*
35 *waste perchlorate and perchlorate-containing waste.*

36 *(e) "Public drinking water well" has the same meaning as*
37 *defined in paragraph (1) of subdivision (a) of Section 25299.97.*

38 *25249.2. On or before July 1, 2004, the owner or operator of*
39 *a perchlorate facility, located within a 5-mile radius of a public*
40 *drinking water well that has been found by any state or local*

1 *agency to be contaminated with perchlorate, shall submit to the*
2 *Environmental Protection Agency a summary of any subsurface*
3 *and any groundwater monitoring, investigation, or remediation*
4 *work that has been performed at the facility. The owner or operator*
5 *shall submit the information electronically, if it is available in*
6 *electronic format.*

7 SEC. 5. Section 25404 of the Health and Safety Code, as
8 amended by Section 53 of Chapter 999 of the Statutes of 2002, is
9 amended to read:

10 25404. (a) For purposes of this chapter, the following terms
11 shall have the following meanings:

12 (1) (A) “Certified Unified Program Agency” or “CUPA”
13 means the agency certified by the secretary to implement the
14 unified program specified in this chapter within a jurisdiction.

15 (B) “Participating Agency” or “PA” means a state or local
16 agency that has a written agreement with the CUPA pursuant to
17 subdivision (d) of Section 25404.3, and is approved by the
18 secretary, to implement or enforce one or more of the unified
19 program elements specified in subdivision (c), in accordance with
20 Sections 25404.1 and 25404.2.

21 (C) “Unified Program Agency” or “UPA” means the CUPA,
22 or its participating agencies to the extent each PA has been
23 designated by the CUPA, pursuant to a written agreement, to
24 implement or enforce a particular unified program element
25 specified in subdivision (c). The UPAs have the responsibility and
26 authority to implement and enforce the requirements listed in
27 subdivision (c), and the regulations adopted to implement the
28 requirements listed in subdivision (c), to the extent provided by
29 Chapter 6.5 (commencing with Section 25100), Chapter 6.67
30 (commencing with Section 25270), Chapter 6.7 (commencing
31 with Section 25280), Chapter 6.95 (commencing with Section
32 25500), and Sections 25404.1 and 25404.2. After a CUPA has
33 been certified by the secretary, the unified program agencies and
34 the state agencies carrying out responsibilities under this chapter
35 shall be the only agencies authorized to enforce the requirements
36 listed in subdivision (c) within the jurisdiction of the CUPA.

37 (2) “Department” means the Department of Toxic Substances
38 Control.

39 (3) “Minor violation” means the failure of a person to comply
40 with any requirement or condition of any applicable law,

1 regulation, permit, information request, order, variance, or other
2 requirement, whether procedural or substantive, of the unified
3 program that the UPA is authorized to implement or enforce
4 pursuant to this chapter, and that does not otherwise include any
5 of the following:

6 (A) A violation that results in injury to persons or property, or
7 that presents a significant threat to human health or the
8 environment.

9 (B) A knowing willful or intentional violation.

10 (C) A violation that is a chronic violation, or that is committed
11 by a recalcitrant violator. In determining whether a violation is
12 chronic or a violator is recalcitrant, the UPA shall consider whether
13 there is evidence indicating that the violator has engaged in a
14 pattern of neglect or disregard with respect to applicable
15 regulatory requirements.

16 (D) A violation that results in an emergency response from a
17 public safety agency.

18 (E) A violation that enables the violator to benefit
19 economically from the noncompliance, either by reduced costs or
20 competitive advantage.

21 (F) A class I violation as provided in Section 25117.6.

22 (G) A class II violation committed by a chronic or a recalcitrant
23 violator, as provided in Section 25117.6.

24 (H) A violation that hinders the ability of the UPA to determine
25 compliance with any other applicable local, state, or federal rule,
26 regulation, information request, order, variance, permit, or other
27 requirement.

28 (4) “Secretary” means the Secretary for Environmental
29 Protection.

30 (5) “Unified program facility” means all contiguous land and
31 structures, other appurtenances, and improvements on the land
32 that are subject to the requirements listed in subdivision (c).

33 (6) “Unified program facility permit” means a permit issued
34 pursuant to this chapter. For the purposes of this chapter, a unified
35 program facility permit encompasses the permitting requirements
36 of Section 25284, and any permit or authorization requirements
37 under any local ordinance or regulation relating to the generation
38 or handling of hazardous waste or hazardous materials, but does
39 not encompass the permitting requirements of a local ordinance

1 that incorporates provisions of the Uniform Fire Code or the
2 Uniform Building Code.

3 (b) The secretary shall adopt implementing regulations and
4 implement a unified hazardous waste and hazardous materials
5 management regulatory program, which shall be known as the
6 unified program, after holding an appropriate number of public
7 hearings throughout the state. The unified program shall be
8 developed in close consultation with the director, the Director of
9 the Office of Emergency Services, the State Fire Marshal, the
10 executive officers and chairpersons of the State Water Resources
11 Control Board and the California regional water quality control
12 boards, the local health officers, local fire services, and other
13 appropriate officers of interested local agencies, and affected
14 businesses and interested members of the public, including
15 environmental organizations.

16 (c) The unified program shall consolidate the administration of
17 the following requirements, and shall, to the maximum extent
18 feasible within statutory constraints, ensure the coordination and
19 consistency of any regulations adopted pursuant to those
20 requirements:

21 (1) (A) Except as provided in subparagraphs (B) and (C), the
22 requirements of Chapter 6.5 (commencing with Section 25100),
23 and the regulations adopted by the department pursuant thereto,
24 applicable to hazardous waste generators, persons operating
25 pursuant to a permit-by-rule, conditional authorization, or
26 conditional exemption, pursuant to Chapter 6.5 (commencing
27 with Section 25100) or the regulations adopted by the department,
28 and persons managing perchlorate materials.

29 (B) The unified program shall not include the requirements of
30 paragraph (3) of subdivision (c) of Section 25200.3, the
31 requirements of Sections 25200.10 and 25200.14, and the
32 authority to issue an order under Sections 25187 and 25187.1, with
33 regard to those portions of a unified program facility that are
34 subject to one of the following:

35 (i) A corrective action order issued by the department pursuant
36 to Section 25187.

37 (ii) An order issued by the department pursuant to Chapter 6.8
38 (commencing with Section 25300) or Chapter 6.85 (commencing
39 with Section 25396).



1 (iii) A remedial action plan approved pursuant to Chapter 6.8
2 (commencing with Section 25300) or Chapter 6.85 (commencing
3 with Section 25396).

4 (iv) A cleanup and abatement order issued by a California
5 regional water quality control board pursuant to Section 13304 of
6 the Water Code, to the extent that the cleanup and abatement order
7 addresses the requirements of the applicable section or sections
8 listed in this subparagraph.

9 (v) Corrective action required under subsection (u) of Section
10 6924 of Title 42 of the United States Code or subsection (h) of
11 Section 6928 of Title 42 of the United States Code.

12 (vi) An environmental assessment pursuant to Section
13 25200.14 or a corrective action pursuant to Section 25200.10 or
14 paragraph (3) of subdivision (c) of Section 25200.3, that is being
15 overseen by the department.

16 (C) The unified program shall not include the requirements of
17 Chapter 6.5 (commencing with Section 25100), and the
18 regulations adopted by the department pursuant thereto,
19 applicable to persons operating transportable treatment units,
20 except that any required notice regarding transportable treatment
21 units shall also be provided to the CUPAs.

22 (2) The requirement of subdivision (c) of Section 25270.5 for
23 owners and operators of aboveground storage tanks to prepare a
24 spill prevention control and countermeasure plan.

25 (3) The requirements of Chapter 6.7 (commencing with
26 Section 25280) concerning underground storage tanks, except for
27 the responsibilities assigned to the State Water Resources Control
28 Board pursuant to Section 25297.1, and the requirements of any
29 underground storage tank ordinance adopted by a city or county.

30 (4) The requirements of Article 1 (commencing with Section
31 25500) of Chapter 6.95 concerning hazardous material release
32 response plans and inventories.

33 (5) The requirements of Article 2 (commencing with Section
34 25531) of Chapter 6.95, concerning the accidental release
35 prevention program.

36 (6) The requirements of subdivisions (b) and (c) of Section
37 80.103 of the Uniform Fire Code, as adopted by the State Fire
38 Marshal pursuant to Section 13143.9 of the Health and Safety
39 Code, concerning hazardous material management plans and
40 inventories.

1 (d) To the maximum extent feasible within statutory
2 constraints, the secretary shall consolidate, coordinate, and make
3 consistent these requirements of the unified program with other
4 requirements imposed by other federal, state, regional, or local
5 agencies upon facilities regulated by the unified program.

6 (e) (1) The secretary shall establish standards applicable to
7 CUPAs, participating agencies, state agencies, and businesses
8 specifying the data to be collected and submitted by unified
9 program agencies in administering the programs listed in
10 subdivision (c). Those standards shall incorporate any standard
11 developed under Section 25503.3.

12 (2) The secretary shall establish an electronic geographic
13 information management system capable of receiving all data
14 collected by the unified program agencies pursuant to this
15 subdivision and Section 25504.1. The secretary shall make all
16 nonconfidential data available on the Internet.

17 (3) (A) As funding becomes available, the secretary shall
18 establish, consistent with paragraph (2), and thereafter maintain,
19 a statewide database.

20 (B) The secretary, or one or more of the boards, departments,
21 or offices within the California Environmental Protection Agency,
22 shall seek available federal funding for purposes of implementing
23 this subdivision.

24 (4) Once the statewide database is established, the secretary
25 shall work with the CUPAs to develop a phased-in schedule for the
26 electronic collection and submittal of information to be included
27 in the statewide database, giving first priority to information
28 relating to those chemicals determined by the secretary to be of
29 greatest concern. The secretary, in making this determination shall
30 consult with the CUPAs, the Office of Emergency Services, the
31 State Fire Marshal, and the boards, departments, and offices within
32 the California Environmental Protection Agency. The information
33 initially included in the statewide database shall include, but is not
34 limited to, the hazardous materials inventory information required
35 to be submitted pursuant to Section 25504.1 for perchlorate
36 materials.

37 (5) Notwithstanding any other law, including, but not limited
38 to, paragraph (2), the secretary may not provide to the public or any
39 governmental agency access, electronically or by any other means,
40 to any hazardous materials inventory information that is



confidential or that the secretary determines could be used to aid a potential terrorist or other criminal act. A governmental agency may request access to the information if that agency agrees in writing, and has the necessary information security procedures and mechanisms, to prevent access by others to the information.

(f) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 6. Section 25404 of the Health and Safety Code, as added by Section 54 of Chapter 999 of the Statutes of 2002, is amended to read:

25404. (a) For purposes of this chapter, the following terms shall have the following meanings:

(1) (A) “Certified Unified Program Agency” or “CUPA” means the agency certified by the secretary to implement the unified program specified in this chapter within a jurisdiction.

(B) “Participating Agency” or “PA” means a state or local agency that has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary, to implement or enforce one or more of the unified program elements specified in subdivision (c), in accordance with Sections 25404.1 and 25404.2.

(C) “Unified Program Agency” or “UPA” means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce a particular unified program element specified in subdivision (c). The UPAs have the responsibility and authority to implement and enforce the requirements listed in subdivision (c), and the regulations adopted to implement the requirements listed in subdivision (c), to the extent provided by Chapter 6.5 (commencing with Section 25100), Chapter 6.67 (commencing with Section 25270), Chapter 6.7 (commencing with Section 25280), Chapter 6.95 (commencing with Section 25500), and Sections 25404.1 and 25404.2. After a CUPA has been certified by the secretary, the unified program agencies and the state agencies carrying out responsibilities under this chapter shall be the only agencies authorized to enforce the requirements listed in subdivision (c) within the jurisdiction of the CUPA.

(2) “Department” means the Department of Toxic Substances Control.

(3) “Secretary” means the Secretary for Environmental Protection.

(4) “Unified program facility” means all contiguous land and structures, other appurtenances, and improvements on the land that are subject to the requirements listed in subdivision (c).

(5) “Unified program facility permit” means a permit issued pursuant to this chapter. For the purposes of this chapter, a unified program facility permit encompasses the permitting requirements of Section 25284, and any permit or authorization requirements under any local ordinance or regulation relating to the generation or handling of hazardous waste or hazardous materials, but does not encompass the permitting requirements of a local ordinance that incorporates provisions of the Uniform Fire Code or the Uniform Building Code.

(b) The secretary shall adopt implementing regulations and implement a unified hazardous waste and hazardous materials management regulatory program, which shall be known as the unified program, after holding an appropriate number of public hearings throughout the state. The unified program shall be developed in close consultation with the director, the Director of the Office of Emergency Services, the State Fire Marshal, the executive officers and chairpersons of the State Water Resources Control Board and the California regional water quality control boards, the local health officers, local fire services, and other appropriate officers of interested local agencies, and affected businesses and interested members of the public, including environmental organizations.

(c) The unified program shall consolidate the administration of the following requirements, and shall, to the maximum extent feasible within statutory constraints, ensure the coordination and consistency of any regulations adopted pursuant to those requirements:

(1) (A) Except as provided in subparagraphs (B) and (C), the requirements of Chapter 6.5 (commencing with Section 25100), and the regulations adopted by the department pursuant thereto, applicable to hazardous waste generators, persons operating pursuant to a permit-by-rule, conditional authorization, or conditional exemption, pursuant to Chapter 6.5 (commencing with Section 25100) or the regulations adopted by the department, and persons managing perchlorate materials.

1 (B) The unified program shall not include the requirements of
2 paragraph (3) of subdivision (c) of Section 25200.3, the
3 requirements of Sections 25200.10 and 25200.14, and the
4 authority to issue an order under Sections 25187 and 25187.1, with
5 regard to those portions of a unified program facility that are
6 subject to one of the following:

7 (i) A corrective action order issued by the department pursuant
8 to Section 25187.

9 (ii) An order issued by the department pursuant to Chapter 6.8
10 (commencing with Section 25300) or Chapter 6.85 (commencing
11 with Section 25396).

12 (iii) A remedial action plan approved pursuant to Chapter 6.8
13 (commencing with Section 25300) or Chapter 6.85 (commencing
14 with Section 25396).

15 (iv) A cleanup and abatement order issued by a California
16 regional water quality control board pursuant to Section 13304 of
17 the Water Code, to the extent that the cleanup and abatement order
18 addresses the requirements of the applicable section or sections
19 listed in this subparagraph.

20 (v) Corrective action required under subsection (u) of Section
21 6924 of Title 42 of the United States Code or subsection (h) of
22 Section 6928 of Title 42 of the United States Code.

23 (vi) An environmental assessment pursuant to Section
24 25200.14 or a corrective action pursuant to Section 25200.10 or
25 paragraph (3) of subdivision (c) of Section 25200.3, that is being
26 overseen by the department.

27 (C) The unified program shall not include the requirements of
28 Chapter 6.5 (commencing with Section 25100), and the
29 regulations adopted by the department pursuant thereto,
30 applicable to persons operating transportable treatment units,
31 except that any required notice regarding transportable treatment
32 units shall also be provided to the CUPAs.

33 (2) The requirement of subdivision (c) of Section 25270.5 for
34 owners and operators of aboveground storage tanks to prepare a
35 spill prevention control and countermeasure plan.

36 (3) The requirements of Chapter 6.7 (commencing with
37 Section 25280) concerning underground storage tanks, except for
38 the responsibilities assigned to the State Water Resources Control
39 Board pursuant to Section 25297.1, and the requirements of any
40 underground storage tank ordinance adopted by a city or county.

1 (4) The requirements of Article 1 (commencing with Section
2 25501) of Chapter 6.95 concerning hazardous material release
3 response plans and inventories.

4 (5) The requirements of Article 2 (commencing with Section
5 25531) of Chapter 6.95, concerning the accidental release
6 prevention program.

7 (6) The requirements of subdivisions (b) and (c) of Section
8 80.103 of the Uniform Fire Code, as adopted by the State Fire
9 Marshal pursuant to Section 13143.9 of the Health and Safety
10 Code, concerning hazardous material management plans and
11 inventories.

12 (d) To the maximum extent feasible within statutory
13 constraints, the secretary shall consolidate, coordinate, and make
14 consistent these requirements of the unified program with other
15 requirements imposed by other federal, state, regional, or local
16 agencies upon facilities regulated by the unified program.

17 (e) (1) The secretary shall establish standards applicable to
18 CUPAs, participating agencies, state agencies, and businesses
19 specifying the data to be collected and submitted by unified
20 program agencies in administering the programs listed in
21 subdivision (c). Those standards shall incorporate any standard
22 developed under Section 25503.3.

23 (2) The secretary shall establish an electronic geographic
24 information management system capable of receiving all data
25 collected by the unified program agencies pursuant to this
26 subdivision and Section 25504.1. The secretary shall make all
27 nonconfidential data available on the Internet.

28 (3) (A) As funding becomes available, the secretary shall
29 establish, consistent with paragraph (2), and thereafter maintain,
30 a statewide database.

31 (B) The secretary, or one or more of the boards, departments,
32 or offices within the California Environmental Protection Agency,
33 shall seek available federal funding for purposes of implementing
34 this subdivision.

35 (4) Once the statewide database is established, the secretary
36 shall work with the CUPAs to develop a phased-in schedule for the
37 electronic collection and submittal of information to be included
38 in the statewide database, giving first priority to information
39 relating to those chemicals determined by the secretary to be of
40 greatest concern. The secretary in making this determination shall

1 consult with the CUPAs, the Office of Emergency Services, the
2 State Fire Marshal, and the boards, departments, and offices within
3 the California Environmental Protection Agency. The information
4 initially included in the statewide database shall include, but is not
5 limited to, the hazardous materials inventory information required
6 to be submitted pursuant to Section 25504.1 for perchlorate
7 materials.

8 (5) Notwithstanding any other law, including, but not limited
9 to, paragraph (2), the secretary may not provide to the public or any
10 governmental agency access, electronically or by any other means,
11 to any hazardous materials inventory information that is
12 confidential or that the secretary determines could be used to aid
13 a potential terrorist or other criminal act. A governmental agency
14 may request access to the information if that agency has agreed in
15 writing, and has the necessary information security procedures and
16 mechanisms, to prevent access by others to the information.

17 This section shall become operative January 1, 2006.

18 SEC. 7. Section 25504.1 is added to the Health and Safety
19 Code, to read:

20 25504.1. Notwithstanding any other law, including, but not
21 limited to, the quantity limitations and exemptions specified in
22 Section 25503.5, a business that handles any amount of
23 perchlorate material, as defined in subdivision (c) of Section
24 25210.5, shall prepare and submit to the administering agency a
25 business plan pursuant to Section 25503.5 and an inventory form
26 pursuant to Section 25509, both of which shall address all
27 perchlorate materials handled by that business.

28 SEC. 8. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution or because a local agency or school district has the
37 authority to levy service charges, fees, or assessments sufficient to



- 1 pay for the program or level of service mandated by this act, within
- 2 the meaning of Section 17556 of the Government Code.

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